

In an Office Action dated April 14, 2006, the Examiner rejected Claims 1-7, 11, 12, 16-26, 30, 31, and 35-38 as anticipated by Embra (U.S.P. 4,621,785); further rejected Claims 14 and 33 as obvious over Embra in view of Nakatani (U.S.P. 5,083,147) and Claims 8 and 27 in view of Wirges (U.S.P. 4,245,826). The Examiner suitably noted informalities in Claims 1, 2, 13, and 32.

The Applicant has amended Claims 1, 2, 4, 13, and 32 to remedy the noted informalities.

The Applicant respectfully traverses the Examiner's finding that Embra anticipates the instant invention. Specifically, the Applicant respectfully suggests that the Examiner is reading a limitation not present in Embra into its teaching. At page 4, the Office Action, in describing the Embra teaching includes the teaching of a "pressure cylinder and motivating force includes a pressure source; wherein the control device is configured to direct a pressure from the pressure source into the pressure cylinder causing the shaft to extend from the housing: where in the control device is configured to release pressure from the pressure cylinder allowing the shaft to retract into the housing; wherein the pressure cylinder includes a pneumatic cylinder and the pressure source includes a pressurized gas source . . ."

At 2:34-59 of Embra, the piston mechanism is described:

A piston 66, which includes seals 68 (preferably of a material such as neoprene), is connected to upper end 60 of piston rod 56 through a shaft 72 which has a lower end extending into bushing 62 and retained therein by means of screw 74. Shaft 72 extends into a hollow portion of piston 66, with piston 66 being slideably engaged thereon by virtue of linear bearing 70. A retaining clip 73 helps retain bearing 70 in position. By virtue of the foregoing arrangement, piston 66 is thereby slideably connected to the upper end 60 of piston rod 56. However, such slideable movement is only possible between the lower limit defined by piston 66 abutting pad 64, and an upper limit defined by a rubber pad 78 disposed on a bushing 76 carried within piston 66 on an upper end of shaft 72, contacting an upper end of linear bearing 70. It will be seen then that the upper end 18 of support rod 16 acts as the mating cylinder for piston 66, the two acting in combination such that upward or downward movement of platform 24 and corresponding movement of attached support tube 16, is inhibited by relative movement of the cylinder or upper end 18, with respect to piston 66 when piston 66 is at the upper or lower limit positions. ***This of course is due to the fact that***



*air can only ingress or egress into the upper end 18 at a restricted rate in accordance with the setting of valve screw 21.*

In each of the two independent claims, Claims 1, 20, the

“control device [is taught as] operably coupled with the support member, the control device being configured to receive a supply of a motivating force and a user input, the control device being further configured to direct at least a portion of the motivating force to the support member to direct the support member to at least one of to extend and to contract as indicated by the user input received;

The Embra patent specifically teaches away from the separately claimed motivating force. Indeed, the movement of air (or motivating force as it is claimed in the instant patent application) can only be through the passage and is driven by movement of the piston on the other hand the claimed motivating force in the instant application is admitted into the piston to move it. The difference is notable because Embra lacks a source of motivating force as taught.

Similarly, Embra does not render any of the claims obvious for the same reason. Having the cylinder move air rather than air moving the cylinder is a patentable distinction and the combination with the references still does not teach the supply of motivating force. Absent such a teaching, the instant device is neither anticipated nor is it obvious.

For these reasons, the Applicant asserts that the claims are in a condition for allowance. The claims as amended resolve all informalities. No reference or combination of references teaches the claimed supply of a motivating force and therefore cannot be said to anticipate or render obvious the claimed invention.

If there are any questions regarding this application, or any matters that may be handled by telephone conference, the Examiner is kindly invited to telephone the undersigned attorney.

Respectfully submitted,

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